



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 216-00

28 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 8 September 1982 for four years at age 21. The record reflects that you served for only five months without incident. However, during the seven month period from February to September 1983 you received four nonjudicial punishments (NJP) and were convicted by a summary court-martial. Your offenses consisted of being drunk on duty while posted as a fire watch, being incapacitated for the proper performance of your duties, having alcohol in the barracks, laying in a vehicle while on post, failure to go to your appointed place of duty, operating a government motor vehicle while drunk, stealing \$8.13 worth of government property, and breaking restriction.

After your second NJP you were referred to medical authorities who recommended that you be placed on an antabuse program. You subsequently completed a 10-hour drug/alcohol education and evaluation program and also were counseled regarding your

substandard performance and conduct, lack of motivation, and frequent alcohol abuse. You were warned that failure to take corrective action on your deficiencies could result in administrative separation.

On 21 December 1983 you were notified that you were being recommended for discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct. You were advised of your procedural rights, declined to consult with counsel, and waived your rights to present your case to an administrative discharge board. Thereafter, the commanding officer recommended separation under other than honorable conditions by reason of misconduct due to a pattern of misconduct. A staff judge advocate determined that the case was sufficient in law and fact. On 6 January 1984 the discharge authority directed separation under other than honorable conditions by reason of misconduct. You were so discharged on 16 January 1984.

In its review of your application the Board conducted a careful search of your records for any mitigating factors which might warrant recharacterization of your discharge. However, no justification for such a change could be found. The Board noted that at the time of your enlistment you were a high school graduate with average intelligence and, at age 21, were older than the average recruit. The Board concluded that you possessed the necessary skills to successfully complete an enlistment. The Board also noted your statement explaining the circumstances which led to several of your disciplinary actions, and the contention that none of the officers wanted hear anything you had to say. However, your explanation and contention are neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board concluded that your statement and contention were insufficient to warrant recharacterization given your record of three NJPs and a summary court-martial conviction. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. Although it appears you had an alcohol abuse problem which may be considered a mitigating factor, such abuse does not excuse misconduct. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board.

In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director